

EXHIBIT 1

1 **Scharf-Norton Center for Constitutional Litigation at the**
2 **GOLDWATER INSTITUTE**

3 Clint Bolick (Arizona Bar No. 021684)
4 Kurt M. Altman (Arizona Bar No. 015603)
5 500 E. Coronado Rd., Phoenix, AZ 85004
6 (602) 462-5000

7 litigation@goldwaterinstitute.org

8 *Attorneys for Intervenor-Defendants Five Individuals*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 THE ARIZONA STUDENTS') 2:13-cv-00306
13 ASSOCIATION,)
14)
15 Plaintiff,) **ANSWER OF FIVE INDIVIDUAL**
16) **INTERVENOR-DEFENDANTS**
17 vs.)
18)
19 THE ARIZONA BOARD OF REGENTS,)
20)
21 Defendant.)

22 Pursuant to Rule 24(c), Fed. R. Civ. Pro., a motion to intervene must be
23 “accompanied by a pleading that sets out the claim or defense for which intervention is
24 sought.” Pursuant to Rule 7(a), Fed. R. Civ. P., the most appropriate “pleading” for
25 which the proposed Intervenor-Defendants may submit is an answer to the Plaintiff’s
26 complaint. This answer set out the defenses for which intervention is sought, including
27 affirmative and other defenses. Intervenor-Defendants do not, by this pleading
28 accompanying their Motion to Intervene, waive any defenses.

1. Paragraph 1 of the Complaint merely describes the alleged basis for
2 Plaintiff’s Complaint and does not require a response.

2. Intervenor-Defendants ADMIT the allegations in paragraph 2 of the

1 Complaint.

2 3. Intervenor-Defendants ADMIT the allegations in paragraph 3 of the
3 Complaint.

4 4. Intervenor-Defendants ADMIT the allegations in paragraph 4 of the
5 Complaint.

6 5. Intervenor-Defendants ADMIT the allegations in paragraph 5 of the
7 Complaint.

8 6. Intervenor-Defendants ADMIT the allegations in paragraph 6 of the
9 Complaint.

10 7. Intervenor-Defendants ADMIT the allegations in paragraph 7 of the
11 Complaint.

12 8. Intervenor-Defendants ADMIT the allegations in paragraph 8 of the
13 Complaint.

14 9. The Intervenor-Defendants ADMIT the allegations in paragraph 9 of the
15 Complaint.

16 10. The Intervenor-Defendants ADMIT that the fee was not mandatory
17 however affirmatively state that students received inadequate notice of the opportunity to
18 request a refund. ASA's procedures were designed and published in a manner that made
19 the opportunity for a student to obtain a refund theoretical rather than practical.

20 11. The Intervenor-Defendants ADMIT the allegation in paragraph 11 of
21 the Complaint.

22 12. The Intervenor-Defendants ADMIT the allegations in paragraph 12 of

1 the Complaint.

2 13. The Intervenor-Defendants ADMIT that the fee was not mandatory
3 however affirmatively state that students received inadequate notice of the opportunity to
4 request a refund. ASA's procedures were designed and published in a manner that made
5 the opportunity for a student to obtain a refund theoretical rather than practical.

6 14. The Intervenor-Defendants ADMIT the allegations in paragraph 14 of
7 the Complaint.

8 15. The Intervenor-Defendants do not currently possess sufficient
9 information to either ADMIT or DENY the allegations in paragraph 15 of the Complaint.

10 16. The Intervenor-Defendants do not currently possess sufficient
11 information to either ADMIT or DENY the allegations in paragraph 16 of the Complaint.

12 17. The Intervenor-Defendants do not currently possess sufficient
13 information to either ADMIT or DENY the allegations in paragraph 17 of the Complaint.

14 18. The Intervenor-Defendants ADMIT the allegations in paragraph 18 of
15 the Complaint.

16 19. The Intervenor-Defendants ADMIT the allegations in paragraph 19 of
17 the Complaint.

18 20. The Intervenor-Defendants ADMIT the allegations in paragraph 20 of
19 the Complaint.

20 21. The Intervenor-Defendants ADMIT that ASA publically advocated for
21 the continuation of the one cent sales tax created by Proposition 100.

22 22. The Intervenor-Defendants ADMIT the allegations in paragraph 22 of

1 the Complaint.

2 23. The Intervenor-Defendants ADMIT the allegations in paragraph 23 of
3 the Complaint.

4 24. The Intervenor-Defendants do not currently possess sufficient
5 information to either ADMIT or DENY the allegations in paragraph 24.

6 25. The Intervenor-Defendants ADMIT that ASA collected signatures to
7 support Proposition 204; however do not currently possess sufficient information as to
8 the quantity of signatures collected.

9 26. The Intervenor-Defendants ADMIT the allegations in paragraph 26 of
10 the Complaint.

11 27. The Intervenor-Defendants ADMIT the allegations in paragraph 27 of
12 the Complaint.

13 28. The Intervenor-Defendants ADMIT the allegations in paragraph 28 of
14 the Complaint.

15 29. The Intervenor-Defendants ADMIT the allegations in paragraph 29 of
16 the Complaint.

17 30. The Intervenor-Defendants do not currently possess sufficient
18 information to either ADMIT or DENY the allegations in paragraph 30 of the Complaint.

19 31. The Intervenor-Defendants do not currently possess sufficient
20 information to either ADMIT or DENY the allegations in paragraph 31 of the Complaint.

21 32. The Intervenor-Defendants ADMIT the allegations in paragraph 32 of
22 the Complaint.

1 33. The Intervenor-Defendants ADMIT the allegations in paragraph 33 of
2 the Complaint.
3

4 34. The Intervenor-Defendants do not currently possess sufficient
5 information to either ADMIT or DENY the allegations in paragraph 34 of the Complaint.
6

7 35. The Intervenor-Defendants do not currently possess sufficient
8 information to either ADMIT or DENY the allegations in paragraph 35 of the Complaint.
9

10 36. The Intervenor-Defendants ADMIT the allegations in paragraph 36 of
11 the Complaint.
12

13 37. The Intervenor-Defendants ADMIT the allegations in paragraph 37 of
14 the Complaint.
15

16 38. The Intervenor-Defendants ADMIT the allegations in paragraph 38 of
17 the Complaint.
18

19 39. The Intervenor-Defendants ADMIT the allegations in paragraph 39 of
20 the Complaint.
21

22 40. The Intervenor-Defendants ADMIT the allegations in paragraph 40 of
23 the Complaint.
24

25 41. The Intervenor-Defendants DENY the allegations in paragraph 41 of
26 the Complaint.
27

28 42. The Intervenor-Defendants ADMIT the allegations in paragraph 42 of
the Complaint.
29

30 43. The Intervenor-Defendants ADMIT the allegations in paragraph 43 of
the Complaint.
31

1 44. The Intervenor-Defendants DENY the allegations set forth in paragraph
2 44 of the Complaint, which consist of Plaintiff's legal conclusions.
3

4 45. The Intervenor-Defendants DENY the allegations set forth in paragraph
5 45 of the Complaint, which consists of Plaintiff's legal conclusions.
6

7 46. The Intervenor-Defendants DENY the allegations set forth in paragraph
8 46 of the Complaint, which consist of Plaintiff's legal conclusions.
9

10 47. The Intervenor-Defendants DENY the allegations set forth in paragraph
11 47 of the Complaint, which consist of Plaintiff's legal conclusions.
12

DEFENSES

13 1. Plaintiff's Complaint fails to meet the standards set out in Fed. R. Civ.
14 P. 12(b)(6), as it does not state a cause of action that is "plausible on its face." *Bell*
15 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

16 2. Plaintiff's requested relief would violate the individual Intervenor-Defendants
17 First Amendment right to freedom of speech and expression by compelling Intervenor-
18 Defendants speech and association through the automatic funding of ASA.
19

REQUEST FOR RELIEF

20 For all the foregoing reason, Plaintiff's claims should be rejected and all relief be
21 denied by this Court.
22

23 ///
24

25 ///
26

27 ///
28

Respectfully submitted March 22, 2013 by:

/S/Kurt M. Altman

Clint Bolick (Arizona Bar No. 021684)

Kurt M. Altman (Arizona Bar No. 015603)

Scharf-Norton Center for Constitutional Litigation at the GOLDWATER INSTITUTE

500 E. Coronado Rd., Phoenix, AZ 85004

(602) 462-5000

litigation@goldwaterinstitute.org

Attorneys for Intervenor-Defendants

CERTIFICATE OF SERVICE

I am an attorney and hereby certify that on March 22, 2013, I electronically filed the attached document with the Clerk of the Court for the United States District Court-District of Arizona by using the CM/ECF system.

Plaintiff Arizona Students Association and Defendant Arizona Board of Regents are registered CM/ECF users and service will be accomplished by the District Court's CM/ECF system. I certify that I also accomplished service by email to Stephen@montoyalawgroup.com behalf of Plaintiff ASA, and kanefieldj@ballardspahr.com on behalf of Defendant ABOR.

/S/Kurt M. Altman